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10/730,851	12/09/2003	Arnold H. Bramnick	BOC9-2003-0038 (407)	5241
40/987 7590 08/28/2008 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188				
EXAMINER				
ROBINSON BOYCE, AKIBA K				
ART UNIT		PAPER NUMBER		
3628				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/730,851

**Applicant(s)**

BRAMNICK ET AL.

**Examiner**

AKIBA K. ROBINSON BOYCE

**Art Unit**

3628

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 13-21 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-21 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Due to communications filed 6/17/08, the following is a final office action. Claims 1, 9, 13, and 25 have been amended. Claims 10-12, 22-24 and 26 are cancelled. Claims 1-9, 13-21 and 25 are pending in this application, and have been examined on the merits. Claims 1-9, 13-21 and 25 are rejected as follows. The previous action has been adjusted to reflect claim amendments.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, and 13-21 rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka et al (US 2003/0225600), and further in view of Gillis (US 2002/0178018 A1).

As per claims 1, 13, Slivka et al discloses:

Receiving a booking request from a passenger, ([0048], rebooking request);

Determining at least one rebooking flight candidate according to rebooking rules based on passenger data for said passenger and flight operations data; ([0034], lines 1-8, passenger information obtained, w/[0014], shows disrupted passengers are re-accommodated, and a disrupted passenger is unable to travel on a scheduled flight on a carrier, w/ shows a ranking of certain types of passengers, and this table is used by the rules engine when performing the re-accommodation process as shown in [0026]);

presenting the determined at least one rebooking flight candidate to said passenger with an incentive for encouraging the passenger to select a rebooking flight candidate preferred by the carrier, ([0028], monitor which is used to present a notification of re-accommodations, w/table 3).

Slivka et al does not specifically disclose the following, but does disclose the determination of alternative itineraries based on passenger data in [0044], and subsequently rebooking a passenger as shown in [0046], and discloses an output file, which is accessed by a re-accommodation driver that attempts to rebook as shown in [0045]. Slivka et al also discloses that a personal computer, and a monitor is included in the re-accommodation computer in [0019] and Fig. 1, thereby implying travel accommodations being selected from the personal computer by a passenger. However, Gillis discloses:

prompting said passenger to select one of said presented at least one rebooking flight candidate, ([0032], lines 10-17, shows prompting customer to indicate if he approves the alternative flight); and

rebooking said passenger on the selected rebooking flight candidate, ([0033], lines 1-9, if customer approved alternative flight, reservation is made).

Gills discloses the above limitations in an analogous art for the purpose of showing that the passenger has the option to make travel selections.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to allow a passenger to select flight candidates, and to rebook the passenger based on his selections with the motivation of allowing a passenger to personally select accommodations for ultimate booking.

As per claims 2, 14, 26, Slivka et al discloses that criteria comprises frequent flyer status in Claim 3.

Slivka et al does not specifically disclose the following, but does disclose that a passenger with a higher value is presented with more flight options since there is an advantage of being rebooked for a flight with a flight time closer to the delayed flight, and the passenger with lower passenger value gets booked on a remaining flight that is not as close to the original delayed flight time. In this case, the passenger with the higher value has a greater number of flights to choose from since he is first presented with the closer flight, but then has the option to decline and choose an alternative flight, where the passenger with the lower value only has an option of being booked on the flight that is the next available, thereby making the following obvious:

wherein said presenting step comprises decreasing a number of said rebooking flight candidates presented to said passenger failing to meet criteria for high passenger value...

As per claim 3, 15, 21, Slivka et al discloses:

wherein said passenger data of said passenger is compared to passenger data of at least one other passenger in need of rebooking, and said passenger is offered rebooking flight candidates based upon said comparing step/further comprising means for comparing said flight operations data for said rebooking flight candidates/compares passenger data with flight operations data for said rebooking flight candidates, ([0015], and [0050], compared to other passengers/customers).

As per claims 4/16, Slivka et al discloses:

wherein said passenger data is provided substantially real time, ([0048], real time).

As per claims 5, 7, 17, 19, Slivka et al discloses:

wherein said presenting step comprises presenting high remaining unflown value flight rebooking candidates and not presenting rebooking flight candidates with lower unflown values/wherein said passenger data comprises the remaining unflown ticket value for said passenger ([0052], shows a re-accommodation process where based on passenger value, higher value is booked).

As per claims 6, 18, Slivka et al discloses:

wherein said presenting step comprises offering said passenger incentives for selecting rebooking flight candidates with high remaining unflown value, ([0004], lines 22-26, shows example of rewards).

As per claim 8, Slivka et al discloses:

wherein said passenger data comprises passenger loyalty data, (Claim 3, frequent flyer status).

As per claim 9, Slivka et al discloses:

Means for receiving a booking request from the passenger;

means for determining at least one rebooking flight candidate according to rebooking rules based on passenger data for said passenger and flight operations data, ([0034], lines 1-8, passenger information obtained, w/[0014], shows disrupted passengers are re-accommodated, and a disrupted passenger is unable to travel on a scheduled flight on a carrier, w/ shows a ranking of certain types of passengers, and this table is used by the rules engine when performing the re-accommodation process as shown in [0026]);

means for presenting the determined at least one rebooking flight candidate to said passenger with an incentive for encouraging the passenger to select a rebooking flight, candidate preferred by the carrier, ([0028], monitor which is used to present a notification of re-accommodations, w/table 3);

Slivka et al does not specifically disclose the following, but does disclose the determination of alternative itineraries based on passenger data in [0044], and subsequently rebooking a passenger as shown in [0046], and discloses an output file,

which is accessed by a re-accommodation driver that attempts to rebook as shown in [0045]. Slivka et al also discloses that a personal computer, and a monitor is included in the re-accommodation computer in [0019] and Fig. 1, thereby implying travel accommodations being selected from the personal computer by a passenger. However, Gillis discloses:

Means for prompting said passengers to select one of said presented at least one flight candidate, ([0032], lines 8-17, shows presenting alternative flights, and shows prompting customer to indicate if he approves the alternative flight);

means for rebooking the passenger on the selected rebooking flight candidate, ([0033], lines 1-9, if customer approved alternative flight, reservation is made).

Gillis discloses the above limitations in an analogous art for the purpose of showing that the passenger has the option to make travel selections.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to prompt a passenger to select flight candidates, and to rebook the passenger with the motivation of allowing a passenger to personally select recommendations for ultimate booking.

4. Claim 25 is rejected under 35 U.S.C. 103(a) as being anticipated by Slivka et al (US 2003/0225600 A1).

As per claim 25, Slivka et al discloses:

wherein means for presenting the determined at least one rebooking flight candidate is a telephone-based voice response unit comprising a text-to-speech

system for presenting said flight candidates to said passenger and at least one among a speech recognition system and a dual tone multi-frequency recognizer system for receiving flight selection information from said passenger, (Claim 9, text based messaging, therefore, dual tone multi-frequency recognizer is inherent).

### ***Response to Arguments***

5. Applicant's arguments filed 6/17/08 have been fully considered but they are not persuasive.

Applicant argues that Slivka automatically rebooks the passengers, and that in contrast, the claims, provides a method to collect a series of options for each passenger and offer those options to the passenger for selection. As discussed in the office action, Slivka discloses a monitor that provide travelers with notifications of re-accommodation. However, in combination with Gillis, this limitation is disclosed. Specifically in Gillis, [0032], lines 8-10, shows presenting alternative flights, and furthermore, lines 10-17, shows prompting the customer to indicate approval of an alternative flight. This passage of Gillis represents a configuration that allows a passenger to select an option for rebooking.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the •Patent Application Information Retrieval (PAIR) system, Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

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Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.

August 22, 2008

/Akiba K Robinson-Boyce/

Primary Examiner, Art Unit 3628